**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JAMES CLAYTON, Plaintiff, v. WAKEFIELD & ASSOCIATES, INC. Defendant.	))))))))))	Civil Action No. 3:17-cv-326 Jury Trial Demanded

COMPLAINT

INTRODUCTION

1. This is an action brought by the Plaintiff, James Clayton, for actual and statutory damages, punitive damages, attorney's fee and costs for Defendant's negligent and willful violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq. (hereafter "FDCPA") The Plaintiff also seeks compensatory and punitive damages for the Defendant's violations of Tennessee's common laws set forth herein.

JURISDICTION

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. §1692k(d), 15 U.S.C. §1681p and 28 U.S.C. §1331, §1332 and §1367. (federal question jurisdiction).

3. Venue is proper in this District because the acts and transactions occurred here, Defendant transacts business here and Plaintiff resides here.

PARTIES AND PERSONAL JURISDICTION

4. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 3 above as if set forth fully herein.

5. Plaintiff, James Clayton, (hereafter referred to as "Plaintiff") is a resident of this State, District and Division who is authorized by law to bring this action.

6. Defendant, Wakefield & Associates, Inc., formerly known as Revenue Recovery Corporation (hereafter referred to as "Defendant") is a for-profit corporation organized in Colorado, with its principal office located at 10800 E. Bethany Dr., Suite 450, Aurora, CO, 80014-2697 and maintains Incorp Services, Inc., 216 Centerview Dr., Suite 317, Brentwood, TN, 37027-3226 as its registered agent for service of process.

7. Defendant was in all respects and at all times relevant herein doing business in the state of Tennessee.

8. Defendant is a "debt collector" as defined by 15 U.S.C. §1692a(6) of the FDCPA.

9. Other defendants may be discovered in the course of litigation, and Plaintiff respectfully prays that the Court will permit the addition of later discovered parties upon motion.

FACTUAL ALLEGATIONS

10. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 9 above as if set forth fully herein.

11. Upon information and belief, plaintiff incurred a debt with Vista Radiology, PC, Allied Lawn, Termite and Pest Control and City Employee Credit Union whereby payments were not made.

12. Plaintiff is of the information, knowledge and belief Defendant is the collection agent for Vista Radiology, P.C., Allied Lawn, Termite and Pest Control, and City Employee Credit Union.

13. Plaintiff filed a Chapter 13 Bankruptcy on November 6, 2015 and listed Vista Radiology, P.C., Allied Lawn, Termite and Pest Control and City Employee Credit Union as unsecured creditors and gave notice to Wakefield & Associates, P.C. formerly known as Revenue Recovery Corporation on behalf of Vista Radiology, P.C., Allied Lawn, Termite and Pest Control, and City Employee Credit Union.

14. Defendant had until March 21, 2016 to file a claim in the bankruptcy but failed to do so on behalf of Vista Radiology, P.C. or Allied Lawn, Termite and Pest Control.

15. City Employee Credit Union hired an attorney who timely filed a proof of claim in the Plaintiff's Chapter 13 bankruptcy, and the debt is being paid inside the Chapter 13 plan.

16. Defendant sent Plaintiff a collection notice on July 29, 2016 to collect the debt to Vista Radiology, P.C., Allied Lawn, Termite and Pest Control, and City Employee Credit Union. See attached Exhibit A.

CAUSES OF ACTION

COUNT ONE: THE FAIR DEBT COLLECTION PRACTICES ACT:
FALSE, DECEPTIVE, OR MISLEADING REPRESENTATION

17. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 16 above as if set forth fully herein.

18. Defendant alleges Plaintiff incurred an obligation to pay money arising out of a transaction in which money, property, insurance or services which are the subject of the transaction are primarily for personal family or household purposes, and is therefore a "debt" as that term is defined by 15 U.S.C. §1692a(5).

19. Specifically, Plaintiff had a financial obligation to pay Vista Radiology, P.C., Allied Lawn, Termite and Pest Control, and City Employee Credit Union for services rendered and Defendant had an opportunity to file a claim and be paid through the Chapter 13 bankruptcy but did not for Vista Radiology, P.C. and Allied Lawn, Termite and Pest Control.

20. The collection letter, specifically Exhibits A is correspondence from Defendant and is a "communication" made in connection with collection of a debt and in an attempt to collect a debt as that term is defined by 15 U.S.C. §1692a(2).

21. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act. Defendant's violations of the FDCPA include, but are not limited to, using false, deceptive or misleading representation in connection with the collection of the debt is a violation of 15 U.S.C. §1692e as Defendant's collection statements are false, deceptive and misleading.

22. Defendant's collection statement is false, deceptive and misleading because they cannot legally collect the debt that is in an active bankruptcy unless they file a claim and get paid in the bankruptcy.

23. As a result of Defendant's actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

COUNT TWO: THE FAIR DEBT COLLECTION PRACTICES ACT UNFAIR PRACTICES

24. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 23 above as if set forth fully herein.

25. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act. Defendant's violations of the FDCPA include, but are not limited to, using unfair, unconscionable means to collect its debt in a violation of 15 U.S.C. §1692f.

26. Defendant is attempting to collect a debt listed in an active bankruptcy for which a claim to be paid through the bankruptcy was not timely filed for Vista Radiology, P.C. and for which the original creditor hired an attorney to timely file a claim actively being paid inside the Chapter 13 plan.

27. The acts of Defendant constitute violation of the FDCPA as the Defendant is attempting to collect from Plaintiff more money than it is legally and contractually allowed to collect in violation of 15 U.S.C. §1692f(1).

28. As a result of Defendant's actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

TRIAL BY JURY

29. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 28 above as if set forth fully herein.

30. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed.R.Civ.P. 38.

AMOUNT OF DAMAGES DEMANDED

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands a judgment against Defendant for the following:

A. Actual and/or statutory damages from Defendant for Plaintiff's actual damages suffered as a direct and proximate result of Defendant's violations of the FDCPA, pursuant to 15 U.S.C. §1692k(a)(1);

B. Judgment against Defendant for $1,000 in statutory damages for Defendant's violations of the FDCPA, pursuant to 15 U.S.C. §1692k (a)(2);

C. Judgment against Defendant for Plaintiff's reasonable attorneys' fees and costs incurred in this action, pursuant to 15 U.S.C. §1692k (a)(3); and

D. Punitive damages in an amount to be determined by a jury; and

E. For such other and further relief as the Court may deem just and proper.

Respectfully submitted this 28th day of July, 2017.

James Clayton

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